

STATE OF IOWA
PROPERTY ASSESSMENT APPEAL BOARD

James Robert Tuttle,
Petitioner-Appellant,

v.

Polk County Board of Review,
Respondent-Appellee.

ORDER

Docket No. 11-77-0900
Parcel No. 312/02352-562-000

On February 9, 2012, the above-captioned appeal came on for hearing before the Iowa Property Assessment Appeal Board. The appeal was conducted under Iowa Code section 441.37A(2)(a-b) and Iowa Administrative Code rules 701-71.21(1) et al. Petitioner-Appellant James Robert Tuttle (Tuttle) requested a hearing and was self-represented. Assistant County Attorney Ralph E. Marasco, Jr. represented the Board of Review at hearing. The Appeal Board now having examined the entire record, heard the testimony, and being fully advised, finds:

Findings of Fact

Tuttle, owner of property located at 8016 Ittis Drive, Urbandale, Iowa, appeals from the Polk County Board of Review decision reassessing his property. According to the property record card, the subject property consists of a two-story dwelling having 1738 total square feet of living area; a 40 square-foot open porch; a 216 square-foot patio; and a 462 square-foot, attached garage built in 1985. The dwelling has an 1164 square-foot basement with 300 square feet of average-plus quality finish. It has a 4+10 quality grade and is in normal condition. The improvements are situated on 0.207 acres.

The real estate was classified as residential on the initial assessment of January 1, 2011, and valued at \$188,800, representing \$35,000 in land value and \$153,800 in dwelling value.

Tuttle protested to the Board of Review on the ground the property assessment is not equitable compared to like properties in the taxing jurisdiction under Iowa Code section 441.37(1)(a). Although

Tuttle filed in the equity section of his petition, he also provided sales information and the Board of Review based its decision on market data, therefore it also considered the ground that the property is assessed for more than authorized by law under section 441.37(1)(b). The Board of Review granted the protest, in part, and reduced the assessment to \$182,600, allocated \$35,000 to land value and \$147,600 to improvement value.

Tuttle then filed his appeal with this Board based on the same grounds. He requested a reduction in value to \$168,500; allocated \$30,780 to land value and \$137,720 to improvement value based on an Iowa Realty Comparative Market Analysis that recommended a listing price of \$168,500 in July 2011, along with other sales and assessments.

Tuttle offered three sales from his neighborhood he deemed comparable to his property. The following summarizes the comparable information:

Address	TSFLA	SF Att Garage	SF Basement	SF Basement Fin	Sale Date	Sales Price	2011 AV	\$SPSF	\$AVPSF
Subject	1738	462	1164	300			\$182,600		\$105.06
4513 Park View Dr	1928	567	374	0	03/09/2011	\$153,000	\$180,400	\$79.36	\$ 93.57
8112 Ittis Dr	1897	726	868	398	05/12/2010	\$173,500	\$207,100	\$91.46	\$109.17
4508 Ittis ¹	1092	480	1092	900	01/04/2012	\$150,500	\$148,900	\$137.82	\$136.36

The Board of Review offered five comparable sales to support its position. They are all two-story, frame dwellings with similar quality grading, built between 1978 and 1987 in the same neighborhood as the subject. One property has minimal basement finish and the remaining properties have none.

Address	TSFLA	SF Att Garage	Sale Date	Sales Price	2011 AV	\$SPSF	\$AVPSF	Adjusted Price	Adjusted \$SPSF
Subject	1738	462			\$182,600		\$105.06		
4520 Parkview Dr	1745	440	09/24/2010	\$184,000	\$175,900	\$105.44	\$100.80	\$194,462	\$111.44
8112 Ittis Dr	1897	726	05/12/2010	\$173,500	\$207,100	\$91.46	\$109.17	\$150,041	\$79.09
8213 Parkview Dr	1726	440	06/22/2009	\$173,500	\$172,000	\$100.52	\$99.65	\$182,992	\$106.02
8304 Ittis Dr	1564	440	06/29/2009	\$167,000	\$165,700	\$106.78	\$105.95	\$190,223	\$121.63
8204 Hammontree Dr	1908	484	08/11/2009	\$179,000	\$174,600	\$93.82	\$91.51	\$181,452	\$95.10

¹ Tuttle identified this additional sale at hearing. It is a one-story dwelling dissimilar from the subject property.

The assessment/sales ratio for these properties ranges from 96% to 119%, with a median of 99% indicating the assessments of this select group of sale properties as a whole are in line with their market values. The assessed value of the subject property is higher than the range of the sales prices per square foot but within the range of the assessed value per square foot of the comparables. It appears the Board of Review made cost adjustments rather than market adjustments to the sale properties. Despite this unorthodox method, the adjusted sale prices ranged from \$79.09 per square foot to \$121.63 per square foot; which places the assessed value of the subject property per square foot near the median of this range as well.

Tuttle testified that he purchased the subject property for \$193,000 in 2005 when the market was higher and that in hindsight he may have over-paid for it. He believes the sales of 8112 Iltis Drive and 4513 Parkview Drive are evidence the market has dropped and results in a pattern of over-assessment in his neighborhood. The sales/assessment ratio on these properties was 119% and 118% respectively and tends to support his opinion. However, we note 4513 Parkview was in below normal condition at the time of the sale and has only one full bathroom, which could result in a reduced sale price.

Although Tuttle's unadjusted sales evidence suggests some properties in the neighborhood may be over-assessed, viewing the record as a whole, we find that Tuttle failed to prove by a preponderance of the evidence his property was over-assessed or inequitably assessed as of January 1, 2011.

Conclusion of Law

The Appeal Board applied the following law.

The Appeal Board has jurisdiction of this matter under Iowa Code sections 421.1A and 441.37A (2011). This Board is an agency and the provisions of the Administrative Procedure Act apply to it. Iowa Code § 17A.2(1). This appeal is a contested case. § 441.37A(1)(b). The Appeal Board determines anew all questions arising before the Board of Review related to the liability of the

property to assessment or the assessed amount. § 441.37A(3)(a). The Appeal Board considers only those grounds presented to or considered by the Board of Review. § 441.37A(1)(b). But new or additional evidence may be introduced. *Id.* The Appeal Board considers the record as a whole and all of the evidence regardless of who introduced it. § 441.37A(3)(a); *see also Hy-vee, Inc. v. Employment Appeal Bd.*, 710 N.W.2d 1, 3 (Iowa 2005). There is no presumption that the assessed value is correct. § 441.37A(3)(a).

In Iowa, property is to be valued at its actual value. Iowa Code § 441.21(1)(a). Actual value is the property's fair and reasonable market value. *Id.* "Market value" essentially is defined as the value established in an arm's-length sale of the property. § 441.21(1)(b). Sale prices of the property or comparable properties in normal transactions are to be considered in arriving at market value. *Id.* If sales are not available, "other factors" may be considered in arriving at market value. § 441.21(2). The assessed value of the property "shall be one hundred percent of its actual value." § 441.21(1)(a).

To prove inequity, a taxpayer may show an assessor did not apply an assessing method uniformly to similarly situated or comparable properties. *Eagle Food Centers v. Bd. of Review of the City of Davenport*, 497 N.W.2d 860, 865 (Iowa 1993). Alternatively, a taxpayer may show the property is assessed higher proportionately than other like property using criteria set forth in *Maxwell v. Shriver*, 257 Iowa 575, 133 N.W.2d 709 (1965). The gist of this test is the ratio difference between assessment and market value, even though Iowa law now requires assessments to be 100% of market value. § 441.21(1). Tuttle did not prove by a preponderance of the evidence that his property is inequitably assessed under either test.

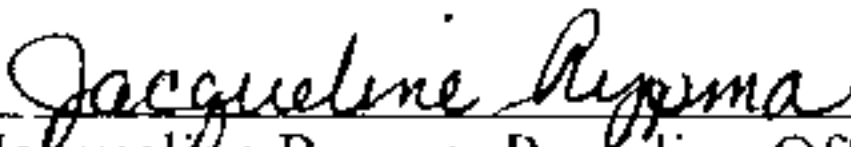
In an appeal that alleges the property is assessed for more than the value authorized by law under Iowa Code section 441.37(1)(b), there must be evidence that the assessment is excessive and the correct value of the property. *Boekeloo v. Bd. of Review of the City of Clinton*, 529 N.W.2d 275, 277

(Iowa 1995). Tuttle failed to prove by a preponderance of the evidence that his property is over-assessed and the fair market value of the property.

Viewing the record as a whole, we determine the preponderance of the evidence does not support Tuttle's claims of inequitable assessment or over-assessment as of January 1, 2011. Therefore, we affirm the property assessment as determined by the Board of Review of \$182,600, representing \$35,000 in land value and \$147,600 in dwelling value as of January 1, 2011.

THE APPEAL BOARD ORDERS that the January 1, 2011, assessment as determined by the Polk County Board of Review is affirmed as set forth above.

Dated this 14 day of March 2012.


Jacqueline Rypma, Presiding Officer


Richard Stradley, Board Chair


Karen Oberman, Board Member

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Certificate of Service	
The undersigned certifies that the foregoing instrument was served upon all parties to the above cause & to each of the attorney(s) of record herein at their respective addresses disclosed on the pleadings on <u>3-14</u> , 2012	
By:	<input checked="" type="checkbox"/> U.S. Mail <input type="checkbox"/> FAX
	<input type="checkbox"/> Hand Delivered <input type="checkbox"/> Overnight Courier
	<input type="checkbox"/> Certified Mail <input type="checkbox"/> Other
Signature	